

SENATE AMENDMENTS

2nd Printing

By: Wu

H.B. No. 3259

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the ownership of and access to certain investigation
3 records in child abuse and neglect cases.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 264.0145(a), Family Code, is amended to
6 read as follows:

7 (a) In this section, "case record" means those files,
8 reports, records, communications, audio recordings, video
9 recordings [~~audiotapes, videotapes~~], or working papers under the
10 custody and control of the department that are collected,
11 developed, or used:

12 (1) in a child abuse or neglect investigation; or

13 (2) in providing services as a result of an
14 investigation, including substitute care services for a child.

15 SECTION 2. Sections 264.408(d), (d-1), and (e), Family
16 Code, are amended to read as follows:

17 (d) A video recording of an [~~videotaped~~] interview of a
18 child that is made at a center is the property of the prosecuting
19 attorney involved in the criminal prosecution of the case involving
20 the child. If no criminal prosecution occurs, the video recording
21 [~~videotaped interview~~] is the property of the attorney involved in
22 representing the department in a civil action alleging child abuse
23 or neglect. If the matter involving the child is not prosecuted,
24 the video recording [~~videotape~~] is the property of the department

1 if the matter is an investigation by the department of abuse or
2 neglect. If the department is not investigating or has not
3 investigated the matter, the video recording [~~videotape~~] is the
4 property of the agency that referred the matter to the center. If
5 the center employs a custodian of records for video recordings of
6 [~~videotaped~~] interviews of children, the center is responsible for
7 the custody of the video recording [~~videotape~~]. A video recording
8 of an [~~videotaped~~] interview may be shared with other agencies
9 under a written agreement.

10 (d-1) A video recording of an [~~videotaped~~] interview
11 described by Subsection (d) is subject to production under Article
12 39.14, Code of Criminal Procedure, and Rule 615, Texas Rules of
13 Evidence. A court shall deny any request by a defendant to copy,
14 photograph, duplicate, or otherwise reproduce a video recording, or
15 the audio portion of a video recording, [~~videotape~~] of an interview
16 described by Subsection (d), provided that the prosecuting attorney
17 makes the video recording [~~videotape~~] reasonably available to the
18 defendant in the same manner as property or material may be made
19 available to defendants, attorneys, and expert witnesses under
20 Article 39.15(d), Code of Criminal Procedure.

21 (e) The department shall be allowed access to a center's
22 video recordings of [~~videotaped~~] interviews of children.

23 SECTION 3. This Act takes effect September 1, 2013.

ADOPTED

MAY 22 2013

Atalay Spaul
Secretary of the Senate

By: *Jean Huffman*

H.B. No. 3259

Substitute the following for H.B. No. 3259:

By: *Campbell*

C.S. H.B. No. 3259

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8 reports, records, communications, audio recordings, video
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10 custody and control of the department that are collected,
11 developed, or used:

- 12 (1) in a child abuse or neglect investigation; or
- 13 (2) in providing services as a result of an
14 investigation, including substitute care services for a child.

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18 child that is made at a center is the property of the prosecuting
19 attorney involved in the criminal prosecution of the case involving
20 the child. If no criminal prosecution occurs, the video recording
21 [~~videotaped interview~~] is the property of the attorney involved in
22 representing the department in a civil action alleging child abuse
23 or neglect. If the matter involving the child is not prosecuted,
24 the video recording [~~videotape~~] is the property of the department

1 if the matter is an investigation by the department of abuse or
2 neglect. If the department is not investigating or has not
3 investigated the matter, the video recording [~~videotape~~] is the
4 property of the agency that referred the matter to the center. If
5 the center employs a custodian of records for video recordings of
6 [~~videotaped~~] interviews of children, the center is responsible for
7 the custody of the video recording [~~videotape~~]. A video recording
8 of an [~~videotaped~~] interview may be shared with other agencies
9 under a written agreement.

10 (d-1) A video recording of an [~~videotaped~~] interview
11 described by Subsection (d) is subject to production under Article
12 39.14, Code of Criminal Procedure, and Rule 615, Texas Rules of
13 Evidence. A court shall deny any request by a defendant to copy,
14 photograph, duplicate, or otherwise reproduce a video recording
15 [~~videotape~~] of an interview described by Subsection (d), provided
16 that the prosecuting attorney makes the video recording [~~videotape~~]
17 reasonably available to the defendant in the same manner as
18 property or material may be made available to defendants,
19 attorneys, and expert witnesses under Article 39.15(d), Code of
20 Criminal Procedure.

21 (e) The department shall be allowed access to a center's
22 video recordings of [~~videotaped~~] interviews of children.

23 SECTION 3. This Act takes effect September 1, 2013.

ADOPTED

MAY 22 2013

FLOOR AMENDMENT NO. 1

Lately Spaw
Secretary of the Senate

BY:

Cauna

1 Amend H.B. No. 3259 by adding the following appropriately
2 numbered SECTION to the bill and renumbering subsequent SECTIONS
3 of the bill accordingly:

4 SECTION __. Section 162.006, Family Code, is amended by
5 amending Subsection (a) and adding Subsection (a-1) to read as
6 follows:

7 (a) The department, licensed child-placing agency, or
8 other person [~~, or entity~~] placing a child for adoption shall
9 inform the prospective adoptive parents of their right to
10 examine the records and other information relating to the
11 history of the child. The department, licensed child-placing
12 agency, or other person [~~or entity~~] placing the child for
13 adoption shall edit the records and information to protect the
14 identity of the biological parents and any other person whose
15 identity is confidential.

16 (a-1) The records described by Subsection (a) must include
17 any records relating to an investigation of abuse in which the
18 child was an alleged or confirmed victim of sexual abuse while
19 residing in a foster home or other residential child-care
20 facility. If the licensed child-placing agency or other person
21 placing the child for adoption does not have the information
22 required by this subsection, the department, at the request of
23 the licensed child-placing agency or other person placing the
24 child for adoption, shall provide the information to the
25 prospective adoptive parents of the child.

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 22, 2013

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3259 by Wu (Relating to the ownership of and access to certain investigation records in child abuse and neglect cases.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Family Code as it relates to the ownership of and access to certain investigation records in child abuse and neglect cases.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of

LBB Staff: UP, CL, SJ, VJC

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 20, 2013

TO: Honorable Royce West, Chair, Senate Committee on Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3259 by Wu (Relating to the ownership of and access to certain investigation records in child abuse and neglect cases.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Family Code as it relates to the ownership of and access to certain investigation records in child abuse and neglect cases.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of

LBB Staff: UP, SJ, CL, VJC

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 8, 2013

TO: Honorable Royce West, Chair, Senate Committee on Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3259 by Wu (Relating to the ownership of and access to certain investigation records in child abuse and neglect cases.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Family Code as it relates to the ownership of and access to certain investigation records in child abuse and neglect cases.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of

LBB Staff: UP, SJ, CL, VJC

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 3, 2013

TO: Honorable Richard Peña Raymond, Chair, House Committee on Human Services

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3259 by Wu (Relating to the ownership of and access to certain investigation records in child abuse and neglect cases.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Family Code as it relates to the ownership of and access to certain investigation records in child abuse and neglect cases.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of

LBB Staff: UP, SJ, CL, VJC

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 1, 2013

TO: Honorable Richard Peña Raymond, Chair, House Committee on Human Services

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3259 by Wu (Relating to the ownership of and access to certain investigation records in child abuse and neglect cases.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Family Code as it relates to the ownership of and access to certain investigation records in child abuse and neglect cases.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of

LBB Staff: UP, CL, SJ, VJC